



COMMUNITY DEVELOPMENT DEPARTMENT

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PLANNING COMMISSION MEETING MINUTES

REGULAR MEETING

JANUARY 26, 2010

PRESENT: Tanda, Mueller, Escobar, Hart, Koepp-Baker, Moniz

ABSENT: Liegl

LATE: None

STAFF: Planning Manager (PM) Rowe, and Development Services Technician (DST) Bassett

Chair Tanda called the meeting to order at 7:00 p.m., inviting all present to join in reciting the pledge of allegiance to the U.S. flag.

DECLARATION OF POSTING OF AGENDA

Development Services Technician Bassett certified that the meeting's agenda was duly noticed and posted in accordance with Government Code Section 54954.2.

OPPORTUNITY FOR PUBLIC COMMENT

Chair Tanda opened the floor to public comment for matters not appearing on the agenda

Commission Mueller: A new urgent care facility is opening at the DePaul Health Center. Their hours will be 3 pm to 11 pm on weekdays and 11 am to 7 pm on weekends. It is for non-emergency-type health needs, but will have a full range of services. It is not for critical issues, such as heart attack; it's meant to be after-hours care. No appointments are necessary. This is something that our community really needs. We have not had an urgent care facility for 7 to 8 years.

Tanda then closed the floor to public comment, as no one in attendance indicated a wish to address such matters.

MINUTES:

January 12, 2010

COMMISSIONERS MUELLER AND ESCOBAR MOTIONED TO APPROVE THE JANUARY 12, 2010 MINUTES WITH THE FOLLOWING REVISIONS:

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Page 3, paragraph 7 (Mueller): ~~Not giving consensus ties our hands,~~ **The Initiative ties our hands...**

Page 3, paragraph 10 (Mueller): There are two other projects. 99 units on Cochrane (**Assisted Living Units**), which were not part of the RDCS competition but which are presently under construction, and 40 units on Diana Avenue (Diana-EAH). There are also 150 low income units coming on line ~~soon~~ **as part of the open market allocations (BMR).**

Page 5, paragraph 4 (Behzad): Yes. Some projects are programmed every-other year due to the budget and also due to our utility ~~ies~~ Master Plans.

Page 5, paragraph 8 (Mueller): We're short of parks. We need to take a look at that and maybe get some ~~in the north area and the area near Tennant~~ **land in the north area (Llagas Road) and the area between Tennant and Dunne.**

Page 7, paragraph 15 (Behzad): (Delete) ~~Let's move on to Streets and Roads.~~

Page 8, paragraph 6 (Behzad): We will have to go back and revise the schedule for this project, because City Council did ~~put~~ **place** it on hold.

Page 9, paragraph 8 (Behzad): ~~As we start replacing them, we would start downtown and move outward.~~ **I am not sure. The current plan is to start replacing them downtown and move outward.**

Page 9, paragraph 17 (Behzad): Right now, ~~we are~~ **the project** is considered on time based on all the approved change orders.

THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: LIEGL

CONSENT:

1) EXTENSION OF TIME, EOT-09-11(UP-07-05): VINEYARD-BETH-EL BAPTIST CHURCH:

A request for an extension of time on a conditional use permit to allow for a 10,086 sq. ft. church to be constructed and operated on a 1.44-acre parcel located on the southwest corner of the intersection of Vineyard Blvd. and Vineyard Ct. in the Light Industrial zoning district.

Rowe presented his staff report.

Mueller: Does this mean we're going with a longer period so that the dates for the Design Permit and the Use Permit coincide?

Rowe: Yes.

Tanda opened the floor to public comment.

Dr. Gabriel Otero, Pastor, appeared to answer questions on behalf of the Beth-El Baptist Church.

Otero: We would like to be in the new facility now, but it will take more time to complete the process and the economy is really tough.

Rowe: If approved, this will extend the Use Permit until June 2013 and the Design Permit until June 2012.

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COMMISSIONERS ESCOBAR AND MONIZ MOTIONED TO GRANT THE EXTENSION OF TIME FOR AGENDA ITEM NO. 1.

THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: UNANIMOUS; AYES: NONE; NOES: NONE; ABSTAIN: NONE; ABSENT: LIEGL

PUBLIC
HEARINGS:

2) ZONING
AMENDMENT,
ZA-09-12: CITY OF
MORGAN HILL
ZONING TEXT
AMENDMENTS:

Amendment to Chapters 18.02 and 18.74 of the Morgan Hill Municipal Code, amending the public notice and public hearing requirement for design permits and major modification of design permits, and amending Chapter 18.54 of the Municipal Code, eliminating the requirement for a temporary use permit for model home complexes for residential subdivisions.

Description

Rowe presented his staff report. He explained that this follows the disbanding of the Architectural Review Board and represents procedural changes recommended by staff to streamline the City's development processing services. He asked for the project to be continued to February 9, 2010.

Tanda opened and closed the floor to public comment, as no one in attendance indicated a wish to speak on this item.

COMMISSIONERS MUELLER AND ESCOBAR MOTIONED TO CONTINUE AGENDA ITEM NO. 2 TO FEBRUARY 9, 2010.

THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: LIEGL

OTHER
BUSINESS:

3) RESIDENTIAL
DEVELOPMENT
CONTROL
SYSTEM (RDCE)
FOURTH
QUARTERLY
REPORT FOR
2009:

Quarterly review of the progress of residential projects that have been awarded building allocations under the City's Residential Development Control System.

Rowe presented his staff report. During this period, RDCE projects have secured 2 building permits and completed construction on 9 homes. Starting with First Quarter 2010, you'll see an increase.

Moniz: Have any of the projects that are really behind and have missed many deadlines, contacted planning to let them know of their intentions? Some of them look like they have not made an attempt to extend their deadlines and are behind on all their applications.

Rowe: Yes, many of them have asked for extensions. Those extensions will be reflected in the next report.

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Tanda: One of the projects (Cory-Habitat) has a 1992 allocation date for the competition year. Is that a typo?

Rowe: No, the developer built the project without completing the BMR's. That part of the project was later sold and is just now being developed by Habitat for Humanity. They have already pulled two building permits. Do we have an idea when Habitat for Humanity will pull the remaining four permits?

Bassett: For sure by April 30, 2010, because that is their deadline for Commencement of Construction.

Mueller: Given the way things are still going, it seems the ongoing allocations will need to be examined again. It appears we're seeing an uptick in activity, so if people are starting to get some permits we might have to look at a cap on ongoing allotments. By May will be doing the next year's competition and set-asides, and we'll need to have a discussion to possibly limit the number of ongoing allocations before then.

COMMISSIONERS MUELLER AND ESCOBAR MOTIONED TO ACCEPT THE RDCS FOURTH QUARTERLY REPORT.

THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: UNANIMOUS; AYES: NONE; NOES: NONE; ABSTAIN: NONE; ABSENT: LIEGL

4)RESIDENTIAL DEVELOPMENT CONTROL SYSTEM(RDCS) IMPLEMENTATION POLICY REGARDING MULTI-FAMILY RENTAL PROJECTS:

Amend Section II of the City Council RDCS Implementation Policies to define the competition category for multi-family rental projects and other competition categories. Amend Section I of the policies to establish a time limit for replacement of existing dwelling unit(s) under the RDCS exemption policy.

Rowe presented his staff report.

Rowe recommended that the commission make a motion to approve the adoption of the amendments to the RDCS Policies to 1) Define the multi-family rental category and add definitions for other competition categories, and 2) modify the replacement of an existing unit under the exemption section of the Implementation Policies to state that this rule only applies if the unit(s) are replaced within a period of two years.

Mueller: Regarding the two-year exemption policy, what if there are RDCS projects that are already underway or have been through the allocation process that couldn't get their exemptions because they didn't rebuild within two years?

Rowe: Once they have an active building permit, the deadline would no longer apply. A project can't be made to compete in the RDCS competition once it has a permit.

Escobar: What is magical about "two years."

Rowe: Nothing. It just seemed like a reasonable number in terms of getting

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insurance, finding a contractor, and being at a point where a project could rebuild.

Mueller: But 2 years could be problematic for some projects, even in good times.

Rowe: At the outset, if they know it's going to take longer than two years, they could just request the building allocations.

Moniz: I think two years to rebuild a structure that has been destroyed or burned is reasonable. But if something happens that makes it unreasonable to comply within 2 years, would there be a possibility for a hardship? Is there a way to appeal it to be longer?

Rowe: You would always still be able to replace the one unit that was lost. You just wouldn't be able to expand it to more units, such as a duplex or duet. You wouldn't be able to get more units, unless you competed.

Moniz: If a tri-plex burns down and it takes longer than two years to rebuild, would they be able to replace all three units?

Rowe: Yes, because the underlying zoning ordinance makes provision for a project to replace like for like.

Mueller: This is policy only, so we could create some hardship exemption language for extenuating circumstances.

Moniz: So there is something in the Muni Code that allows an extension to whatever is written in the policy?

Rowe: Yes.

Moniz: Why was 15 dwelling units chosen as the number for "small projects"?

Joe: I think it was set up in discussions with the development community as a separate category so that small projects wouldn't have to compete with 50 to 60 unit projects, which could afford to do a lot more. A separate category was created so small projects could compete among themselves. The same logic was also applied to the micro category, although that number has changed a couple of times.

Rowe: Right now, the micro projects are 4 or less.

Mueller: When the rental report comes back in April, I would like to ask for a review of the condo conversion ordinance. Considering the number of rental units that could come online in the next few years, and all the construction downtown, I'm very concerned about the six month period that is required before a rental unit can be counted in the vacancy report. I don't want to see an artificial spike. I've asked for a review of that particular section because I don't want the current large scale activity to artificially inflate the rental vacancy numbers.

Escobar: I would like to see a couple of changes made to the language of Item No. 4 in the multi-family rental project. In the first paragraph, second line, I'd like to

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change the word “facilitate” to “allow.” Facilitate is a proactive word that would encourage developers to do that. Also, I’d also like to see the word “current” removed from the next sentence which says, “under the current condo conversion pursuant to Section 17.36...” The word current is redundant. And Section 17.36 could evolve in time.

Tanda: Where is the explanation for the 2 year time limit found in your report?

Rowe: At the bottom of the first page, Item No. 3, the last sentence.

Tanda then opened Item No. 4 to public testimony regarding city policy.

Mr. Richard Liaw appeared on behalf of the Monterey-Dynasty project.

Liaw: When the original project was submitted, the idea was to have condo ownership with a minimum of ten years as a rental. They did not consider any apartment operations. They have consulted with a CC&R lawyer to work out the issue of condo rentals with individual ownership.

Tanda: Jim, could you clarify the differences between what the applicant would like and what has already been approved by the commission?

Rowe: The applicant would like to be able to record a condominium map and rent out units for 10 years. The units would be in the city’s rental housing inventory for that long. After that, they would be sold and would drop out of the rental inventory. You’re recommending that these units remain part of the city’s rental housing inventory unless the apartment vacancy rate is greater than 5 percent. Then they could be considered for condo conversion.

Mueller: Another thing to consider is that they competed under the rental category. Rental projects have historically not been able to compete against SFD projects. That whole project competed in a category that was easier and, therefore, we expect that project to remain rental stock forever. If we recommend sending this forward tonight, is there any thought that we should let the city attorney review it first?

Rowe: You’re awarding building allotments on February 9th, so you would need to make the recommendation tonight.

Sue: There are some elements to this project (Monterey-Dynasty) that place the burden of proof on the association. Wouldn’t that be an intense burden to be put on the association?

Rowe: Yes, we are concerned about that as well. We do not have experience with a project that is mixed with both rental and ownership.

Mueller: From a policy standpoint, these policies are an appropriate clarification of what we have been doing for years, and so I think it is right to recommend them for approval. What they (Monterey-Dynasty) have requested appears to be very complicated.

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COMMISSIONERS MUELLER AND ESCOBAR MOTIONED TO APPROVE THE AMENDED RDCE DOCUMENT. THE MOTION PASSED (6-0-0-1) WITH THE FOLLOWING VOTE: AYES: UNANIMOUS; NOES: NONE; ABSTAIN: NONE; ABSENT: LIEGL.

Tanda: Closed the formal part of the agenda and moved on to the tentative agenda for the Feb 9th meeting.

Rowe: One item has been continued (Agenda Item No. 4) and there are hearings on the Circulation Element, as well as Updates to the Geologic Combining District. I have also handed out the Initial Study for the Clayton-O'Brien project, which is the second item on the Tentative Agenda for the next meeting.

Mueller: Regarding Agenda Item No. 4, I would like to make sure that the motion reflects the two changes discussed. Also, will we be receiving the final EIR document for the circulation element soon?

Rowe: I will follow up on that.

ANNOUNCEMENTS
/COMMISSIONER
IDENTIFIED ISSUES

None.

CITY COUNCIL
REPORTS

None.

ADJOURNMENT

Noting that there was no further business for the Planning Commission at this meeting, Chair Tanda adjourned the meeting at 7:50 p.m.

MINUTES RECORDED AND TRANSCRIBED BY:

ELIZABETH BASSETT, Development Services Technician